

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BOARD OF TRUSTEES OF THE
MICHIGAN REGIONAL COUNCIL OF
CARPENTERS EMPLOYEE BENEFIT
FUND, f/k/a The Carpenters Pension
Fund Trust - Detroit and Vicinity,

Case No. 13-cv-10416

Paul D. Borman
United States District Judge

Plaintiff,

v.

BLUE CROSS BLUE SHIELD
OF MICHIGAN,

Defendant.

OPINION AND ORDER GRANTING DEFENDANT'S
MOTION FOR STAY PENDING APPEAL (ECF NO. 14)

This case, filed by Plaintiff Board of Trustees of the Michigan Regional Council of Carpenters Employee Benefit Fund (“Carpenters”) on February 1, 2013, is one of more than twenty related cases pending in this District against Defendant Blue Cross Blue Shield of Michigan (“BCBSM”) alleging that BCBSM violated federal and state law in administering its self-funded health care plans. Before the Court is BCBSM’s Motion for Stay Pending Appeal filed on July 19, 2013. (ECF No. 14.) For the reasons that follow, the Court GRANTS the motion for stay and STAYS this case pending the outcome in the Sixth Circuit Court of Appeals of the appeal in *Hi-Lex Controls, Inc. v. Blue Cross Blue Shield of Michigan*, No. 13-1859 (6th Cir. June 25, 2013), No. 11-cv-12557 (E.D. Mich.) (Roberts, J.).

BCBSM argues that a stay is warranted in this case because an appellate decision in BCBSM’s favor in *Hi-Lex* will, under principles of *stare decisis*, control at least some of the same

issues presented in this case. (ECF No. 14, Def.'s Mot. at 5.) BCBSM argues that proceeding with this case thus risks enormous waste of the Court's and the parties' resources. BCBSM brings to the Court's attention several "disputed fee" cases, presenting issues similar to those presented in the instant case, that have been stayed by other judges in this District. (*Id.* at 10-11.)

Carpenters oppose a stay, arguing that the Sixth Circuit's recent decision in *Pipefitters 636 v. Blue Cross and Blue Shield of Michigan*, __F.3d__, 2013 WL 3746217 (6th Cir. July 18, 2013), resolves the same liability issues which will control resolution of this action. (ECF No. 18, Pl.'s Resp. at 5-6.) BCBSM responds that *Pipefitters* has proceeded down a very different path and is not dispositive on the questions presented in this case, which involves issues not decided in *Pipefitters*. (ECF No. 19, Def.'s Reply at 2-4.)

This Court agrees with Judge Duggan's opinion in *Board of Trustees of the Sheet Metal Workers' Local Union No. 80 Insurance Trust Fund v. Blue Cross Blue Shield of Michigan*, No. 13-cv-10415 (E.D. Mich. Aug. 12, 2013) (ECF No. 20, Opinion and Order Granting Defendant's Motion for Stay Pending Appeal), that while *Pipefitters* "may resolve some of the issues which this Court will have to decide in the pending matter," nonetheless "the pending matter presents other substantial issues which [*Pipefitters*] did not address and/or decide." (*Id.* at 2-3.) Also, as Judge Duggan observed, no mandate has yet issued in *Pipefitters*, and, on August 7, 2013, Hi-Lex filed a request to expedite briefing and decision in the *Hi-Lex* appeal.

Accordingly, the Court concludes that a decision in *Hi-Lex* will likely influence the outcome of this case and therefore the Court GRANTS BCBSM's Motion for Stay Pending Appeal. This matter is STAYED until the appeal in *Hi-Lex* is decided. It is further ORDERED that BCBSM shall

notify this Court when the Sixth Circuit Court of Appeals issues a decision in *Hi-Lex* appeal.

IT IS SO ORDERED.

s/Paul D. Borman

PAUL D. BORMAN

UNITED STATES DISTRICT JUDGE

Dated: August 13, 2013

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 13, 2013.

s/Deborah Tofil

Case Manager